

**Town of Malone
Regular Board Meeting
March 25, 2015**

A regular meeting of the Malone Town Board was held Wednesday, March 25, 2015 at the Malone Town Offices, 27 Airport Rd., Malone, NY, commencing at 6:00 p.m. and preceded by a Public Hearing at 5:30 p.m.

5:30 P.M. Public Hearing -- Transient Sales

PRESENT: Supervisor Howard Maneely
Councilor Mary Scharf
Councilor Louise Taylor
Councilor John Sullivan

ABSENT: Deputy Supervisor Paul Walbridge

RECORDING SECRETARY: Denice Hudson, Deputy Town Clerk

ALSO PRESENT: Andrea Stewart, Budget Officer
Bruce Mallette, Highway Superintendent
Lillian Anderson-Duffy, Attorney
Jason Ellis, Malone
Despo MacNeill, Malone Telegram

At 5:30 Supervisor Maneely opened a public hearing on Proposed Local Law #2-2015

Malone Resident and Business Owner Jason Ellis – This is not just an issue in Malone, but in every town. For the auto dealers to take up this issue, it is not a car dealership worrying about competition in their town, but the business practices used. The things the business was doing was concerning to all dealers in the state and has been brought to the attention of the legislatures. Motor vehicle is governing body and I provided an excerpt of July 1 changes that will come into place. It does not affect what we do, but they are not allowing these types of sales to happen more than 20 miles away from their primary location.

Supervisor Maneely indicated it was appalling the way people were treated that went there, and this is why we put the Moratorium in place.

Mr. Ellis further indicated the bond amount is quite small. A \$10,000 would nearly make whole one person that was wrong. New York state auto dealers is a \$50,000 bond. The Board members stated we should change the amount to \$50,000.

Motion – Councilor Taylor
Second – Councilor Sullivan

Resolved (#81 – 2015) to change bond amount to \$50,000.00 instead of \$10,000.00 to do business in the State of New York for purpose of saving harmless the of the citizens of Malone pursuant to motor vehicle dealer and transportation regulations.

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye

Councilor Scharf indicated what she likes about the law is it protects our locals in all forms. It is our intent to protect the local people. Mr. Ellis asked Attorney Duffy if this would preclude him from having a sale off his site. Mr. Ellis is not considered a transient business. There are other Towns working on same law. The Village is going to mirror ours. Attorney Duffy indicated there is a provision under General Exemptions, if you owned another piece of property, you could sell there. If you are thinking of selling in a total different location. Mr. Ellis indicated it is not happening at this time, but we can cross that if it comes up. He further indicated he can display cars anywhere he wants pursuant to New York State, they cannot be actively sold. Mr. Ellis stated he cannot sell where he does not have a license. He can display where nothing is going on, but cannot display them at a gas station. New York State does not allow that. Transient companies are really out of line. Attorney Duffy indicated as the law is written now, he probably would not be able to do a sale off-site but the law could be revised to include as an exemption the language from proposed State statute. This could be included under general exemptions sale of merchandise owned by a business located within 20 miles. If

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the Board was so inclined, I could draft another exemption that would mirror the language from State law. Attorney Duffy indicated the Law, as drafted, is extremely strict. It is not uncommon for dealers to have off-site sales. Transient business is not a company in Malone. Attorney Duffy further stated any business, whether located in Malone or not, can be considered transient. We then have to look at exemptions to see if what you want to accomplish applies. If anyone wants to take advantage of market activity in WalMart or Price Chopper parking lot, the provision as indicated prior would apply.

Motion – Councilor Scharf

Second – Councilor Taylor

Resolved (#82 – 2015) Sales of any merchandise by a business owner at a site in the Town of Malone located within 20 miles of the permanent headquarters or registered location of said business.

At 6:03 p.m. with no further questions from the public, Supervisor Maneely declared the Public Hearing closed.

CALL TO ORDER: Supervisor Maneely called the meeting to order at 6:05 p.m., with a pledge to the flag.

MINUTES:

Approval of February 25, 2015 and March 11, 2015 regular meetings.

Motion – Councilor Taylor

Second – Councilor Scharf

Resolved (#83 – 2015) to accept the Minutes of February 25, 2015 and March 11, 2015 and to place in file.

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye

REPORTS:

Motion – Councilor Taylor

Second – Councilor Sullivan

Resolved (#84 – 2015) to accept the following reports for review and filing as written and placed in the file: Supervisor’s Report – 1/2015, Code Report – 2/2015, Airport Lease Manager Report – 3/2015, Supt. of Highways Report – 2/2015, and Airport Manager 2/2015.

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf – Aye

OLD BUSINESS:

Limekiln Road Abandonment Update

Attorney Anderson-Duffy indicated she received documentation from Gar Smith and a letter was hand-delivered to Jonathan Miller the county attorney asking for their cooperation and assistance of the County Highway supervisor as under Section 205 of the Highway Law Subdivision 2 requires that the County Highway Supervisor preside over a public hearing and find that this is proper and just that this qualified abandonment takes place. Jonathan sent letter to Legislature and to County Highway Superintendent John Hutchins and has asked Mr. Hutchins to connect with Howard Maneely or Highway Superintendent to get further specifics and go to site and make determination and report back to County Board and they will set up a public hearing. A certificate will need to be signed stating the road is subject to qualified abandonment. The effect will be we will not have a public responsibility to maintain, but will still be opened as public easement.

Airport Land Lease

Meeting is scheduled for week of March 30th with Poupores and Bryan Hughes regarding land lease of airport property.

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SUPERVISOR REPORTS:

**Notice of Claim: LaPage v. Town of Malone and Malone Central School District
Hyde v. Town of Malone and Malone Central School District**

These Claims are a result of an accident on Lower Whitten Road.

Motion – Councilor Sullivan

Second – Councilor Taylor

Resolved (#85 – 2015) to grant Supervisor Maneely permission to sign the five year installment purchase agreement with Mercedes-Benz Financial Services for the 2015 Western Star 4700 SF with Tenco Equipment package (\$192,533.00) – as per Board decisions made during the 2015 budget process last fall.

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf – Aye

Motion – Councilor Taylor

Second – Councilor Scharf

Resolved (#86 – 2015) to grant Supervisor Maneely to sign agreement between the Town of Malone and the Malone EMS a not-for profit corporation, to provide ambulance service to its residence and persons situated within the Town for the year 2015.

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf – Aye

Adoption Local Law #2-2015

Motion – Councilor Scharf

Second – Councilor Taylor

Resolved (#87 – 2015) to Adopt Local Law #2-2015, with changes made tonight. Deputy Clerk Hudson will file with Secretary of State.

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf – Aye

Motion – Councilor Taylor

Second – Councilor Scharf

Resolved (#88 – 2015) to grant Supervisor Maneely permission to sign physicals for Malone Callfiremen Brian Brooks, Robert Sova and John Kissane, and add them to the County Self Insurance Plan.

CARRIED (4 - 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf – Aye

BOARD MEMBER/COMMITTEE ITEMS

Supervisor Maneely indicated Dick Lavigne and Don Dumas would like 15 acres to grow sweet corn for the food pantry. Supervisor Maneely would like to work with them to see if the town can provide the land. Need it for the food pantry to feed the poor. The land would be in the IDA park, and we would need an agreement, and approval of IDA and FAA. JCEO will need to be sure insured to make sure no one gets hurt. Attorney Duffy believes we should enter into an agreement with them and asked if they would be renting land? Supervisor Maneely indicated it is for the poor, and it is going to Malone. Attorney Duffy will look to schedule a meeting and work up an agreement in an attempt to work out an agreement which includes guidelines on equipment on the runways, and present to Town Board. The Town probably cannot give 15 acres, but will see what can provide.

Councilor Scharf indicated she was unable to attend Complete Streets due to recent surgery. Josey Delaney did Complete Streets presentation. Councilor Scharf further indicated Complete Streets had a training which Highway Superintendent Bruce Mallette also attended and indicated there were great suggestions and things that can be improved here, but it is about getting money and getting state approval. Councilor Scharf thanked Mr. Mallette for attending.

Councilor Sullivan wanted to thank the Farmers Market for their \$500.00 donation.

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Councilor Taylor stated the court system is busy, and believes Court Clerk Hyde needs more help as she is working long hours. Court Clerk LaBerge will be out at least 10 weeks all together. We may need to consider adjusting the hours of the part-time employee. Councilor Scharf indicated this is an extreme circumstance and wanted to know if the hours could be adjusted. Court Committee of Councilors Taylor and Sullivan will speak to Court Clerk Hyde.

SUPERINTENDENT OF HIGHWAY REPORTS:

Highway Superintendent Mallette stated water is running and the department is trying to keep ahead of it. The problem is the roads unthaw, and freeze up again. He also indicated the new truck is over if anyone wants to take a look

Superintendent Mallette indicated he is looking into trailer for calcium spray. They say you can put them in a dump truck box, but I figure we should set up on a trailer. To replace a dump truck is costly, and a trailer is cheaper and easier to maneuver. He further indicated we are doing our own dust control, and working with the DEC on the labeling and identifying of tanks of Town property, even though we are getting fuel farm, they are on property, and we need to register them. We cannot paint in winter, but are working on the process, labels have been made up, and taken with the tanks and sent to DEC so he knows we are working on them.

Superintendent Mallette will look up information on trailers and put information in your mailbox and move through at next meeting.

CORRESPONDENCE

Penny Lane – Request from residents that private road be maintained by the Town.

Penny Lane is top of Murray Street. It is a road that the residents made. Someone built a house and had a driveway, others put houses back there, and it is still a driveway. The road is not wide enough for a plow truck. They would have to make a road to our specifications. Budget Officer Stewart indicated there is a subdivision law that has been approved by Town Board since early 1990s because the last road the Town accepted that was not up to Town specs and cost a considerable amount of money, and we still do not have right-of-way or proper width. After Miner Road was accepted, they paid to deal with it the best way they could, and the Board at that time decided to not accept any more roads if they were the right width, up to specs, and paved, and up to specifications. Councilor Scharf believes a letter should be sent in response explaining the law that exists and the date so they know it has been around so that we maintain a respectful response to it. They should be notified, with a copy of what the specs are so they are aware. They need something official so that people are aware of what they need to know what is involved.

NYS Office of Community Renewal – Monitoring reports relating to 2010 and 2011 grants. Budget Officer Stewart indicated responses have been drafted and emailed to each Board member for some sections, and others she cannot complete. There are sections either the Grant Committee and/or Consultant has to deal with.

Poissant, Nichols & Grue – FOIL request. Deputy Town Clerk Hudson is preparing response.

EXECUTIVE SESSION:

At 6:30 p.m. Motion – Supervisor Maneely

Second – Councilor Scharf

Resolved (#89 - 2015) that the Town Board enters into Executive Session pertaining to the employment history of, and matters leading to, the employment, discipline, suspension, dismissal or removal of a particular person, with Board Members, Attorney, and Budget Officer Stewart, to be present.

**CARRIED (4- 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

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At 7:20 p.m. the executive session ended

Motion – Supervisor Maneely

Second – Councilor Scharf

Resolved (#90 - 2015) to return to regular session.

**CARRIED (4- 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf – Aye**

Councilor Taylor indicated that the head Court Clerk is out on medical leave and will be out, and has been out, for at least two months. We have one employee completing all the work, and the board has decided to prorate her salary to \$29,436.00 per year.

Motion – Councilor Taylor

Second – Councilor Scharf

Resolved (#91 – 2015) to raise Court Clerk salary of Sharon Hyde to \$29,436.00 prorated for rest of year, immediately.

**CARRIED (4- 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent
Councilor Sullivan - Absent Councilor Taylor - Aye Councilor Scharf – Aye**

Councilor Scharf wanted to commend Ms. Hyde for her long hours and hopes Louise LaBerge comes back to work soon.

Motion – Councilor Taylor

Second – Councilor Scharf

Resolved (#92 - 2015) to appoint Denice A. Hudson Town Clerk with salary at \$35,000, prorated for rest of year.

**CARRIED (4- 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf – Aye**

Motion – Councilor Scharf

Second – Councilor Taylor

Resolved (#93 – 2015) to advertise in Malone Telegram for a Deputy Town Clerk/Floater position, with the ad to include all requirements of the state, and as read.

**CARRIED (4- 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf – Aye**

BILLS FOR AUDIT & PAYMENT:

Motion – Councilor Taylor

Second – Councilor Sullivan

Resolved (#94 - 2015): that the following bills, having been audited, Vouchers #292-316, be paid:

General Fund (A) – Abstract #6	\$ 4,573.39
Part Town General (B) – Abstract #6	318.69
Highway Townwide (DA) – Abstract #6	72.76
Highway Outside (DB) – Abstract #6	42,546.11
Airport Cap. Proj. – Abstract #3	839.09
Trust & Agency (T) – Abstract #12	<u>32,033.40</u>
Grand Total:	\$80,383.44

**CARRIED (4- 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent
Councilor Sullivan – Aye Councilor Taylor - Aye Councilor Scharf - Aye**

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ADJOURN:

At 7:35 p.m.

Motion – Supervisor Maneely

Second – Councilor Taylor

Resolved (#95 – 2015) there being no further business to come before the Board that it adjourn, with the next meeting to be April 8, 2015 at 6:00 p.m., with the IDA meeting at 5:45.

**CARRIED (4- 0) – Supervisor Maneely - Aye Deputy Supervisor Walbridge – Absent
Councilor Sullivan - Aye Councilor Taylor - Aye Councilor Scharf - Aye**

RESPECTFULLY SUBMITTED,

DENICE A. HUDSON, DEPUTY TOWN CLERK